

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NATURAL RESOURCES PROTECTION ACT

Coastal Sand Dune Rules
Chapter 355



This Packet Contains Both Rules and Application Form

Chapter 355: COASTAL SAND DUNE RULE

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CHAPTER 355: COASTAL SAND DUNE RULES

SUMMARY: These rules clarify the criteria for obtaining a permit under Maine's Natural Resources Protection Act (in regard to coastal sand dune systems) (38 M.R.S.A. Sections 480-A et. seq.). The rules outline classes of projects which are exempted from the requirement of obtaining a permit. For all other projects, the rules outline standards which projects must meet in order to satisfy the statutory criteria. The rules also contain a definitions section, and a section which provides general information on the processing of sand dune applications.

1. Definitions

A.A-zone.* That land area of special flood hazard subject to a one percent or greater chance of flooding in any given year.

NOTE: These areas will be designated as Zones A, AI-30, or AO on a community's Flood Insurance Rate Map, and the depth of flooding will usually be shown on the map. In cases where these maps are not available, no longer apply to a specific site because of significant shoreline changes, or show unnumbered A-zones, the base flood, also known as the 100 year flood, is the flood with a one percent chance of occurring in any given year. Flood elevations must be given relative to NGVD, which is a standard elevation (0.00 feet) from which land measurements are derived. Procedures for determining flood elevations should conform with the procedures established by the Federal Emergency Management Agency (FEMA) in developing the Flood Insurance Rate Maps. Computer analysis is not required.

B. B-Zone.* Areas between the special flood hazard areas (A-Zones and V-Zones) and the limits of the 500 year flood. This zone also includes areas of 100 year shallow flooding where water depths are less than one foot.

C. Back dunes.* Back dunes consist of sand dunes and eolian sand flats that lie landward of the frontal dune or a low energy beach. Back dunes include those areas containing artificial fill over back dune sands or over wetlands adjacent to the sand dune system.

NOTE: In locations of extreme dune erosion where the frontal dune is completely eroded, back dunes may become frontal dunes.

D. Beach Face. The sloping portion of a beach which is below the high tide limit, and is usually exposed to wave action.

E. Beach Grass. A grass species native to sand dune systems with the scientific name *Ammophila breviligulata*.

F. Beach Nourishment. Artificially adding sand to the beach face.

G. Berm. The flat or gently sloping area between the high tide limit and the frontal dune. A berm is formed by deposition of sand which has been transported to shore by waves and along shore by waves, wind, and longshore currents.

NOTE: See beach diagram.

H. Board. The Board of Environmental Protection.

H-1. Building. A structure designed for habitation, shelter, storage, trade, manufacture, religion, business, education, etc. For the purposes of this rule, "building" includes all portions of a structure covered by a roof.

- (1) Closed Fence. A fence which effectively blocks the movement of wind, water, or sand.

NOTE: A stockade fence is an example of a closed fence.

J. Commissioner. The Commissioner of the Department of Environmental Protection.

K. Department. The Department of Environmental Protection.

L. Development. The alteration of property for human-related use including, but not limited to, buildings, driveways, parking areas, wastewater disposal systems, lawns and other non-native vegetation, and any other appurtenant facilities, but excluding temporary structures and open decks exempted under Section 2(H).

M. FEMA. The Federal Emergency Management Agency (FEMA) of the United States Government. This agency administers the National Flood Insurance Program and the Flood Insurance Rate Maps.

N. Flood Hazard. The danger to life and property caused by flooding which could result in personal injury, damage to real or personal property, and damage to the sand dune system.

O. Frontal Dune.* The frontal dune is the area consisting of the most seaward ridge of sand and includes former frontal dune areas modified by development. Where the dune has been altered from a natural condition, the dune position may be inferred from the present beach profile, dune positions along the shore, and regional trends in dune width. The frontal dune may or may not be vegetated with natural flora and may consist in part or in whole, of artificial fill. In areas where smaller ridges of sand are forming in front of an established dune ridge, the frontal dune may include more than one ridge.

NOTE: See beach diagram.

P. Lot. A piece of land measured and marked out by metes and bounds or by some other approved surveying technique.

Q. Maintenance and Repair. Work done to a structure to prevent decline, to hold or preserve in an existing state or condition or to keep it in, or restore it to sound condition after minor damage or decay. The following activities do not qualify as maintenance and repair:

- (1) The restoration or replacement of a building which is damaged to greater than 50% of the building's appraised market value by an ocean storm;
- (2) Any repair, rehabilitation, or other improvement of a building, the cost of which exceeds 50% of the appraised market value of the building before the start of construction;
- (3) Any work done to enlarge an existing building; and
- (4) Reconstruction or replacement of an existing building.

R. NVGD. National Geodetic Vertical Datum (NGVD). The base (0.00) elevation point from which land measurements are derived. This elevation was established in 1929 and was formerly called "sea level datum of 1929" or "mean sea level".

S. Ocean Storm. A low pressure system accompanied by flooding and sand erosion on the beach face, which results in a recognizable alteration of the beach profile.

T. Open Fence. A fence through which water, wind and sand can easily move.

NOTE: Split rail and snow fences are examples of open fences.

U. Permanent Structure. Any structure which is not temporary.

NOTE: See definition of "temporary structure."

V. Posts. Any pilings or column support which allows water and sand to move freely underneath the structure, and which is structurally adequate for the purpose for which it is intended. The term "posts" does not include any frost wall or breakaway foundation construction.

V-1. Reconstruction or Replacement. To put back in a previous condition or position; to construct again; to rebuild; to restore again as an entity a structure that was lost, destroyed, or removed.

W. Sand Dune System.* The term "sand dune system" is used interchangeably with the terms "beach system, " coastal sand dune," "coastal sand dune system," and "dune system". The statutory definition of "coastal sand dune systems" in 38 M.R.S.A. Section 480-B(1) applies equally to all these terms. Sand dune systems include sand deposits within a marine beach system which have been artificially covered by structures, lawns, roads, and fill. Sand dune systems also include all vegetation which is native to and occurring in the system.

X. Seawall. An embankment, vertical wall, or other barrier built for the purpose of preventing shoreline erosion.

Y. Severe Damage. Severe damage is damage which exceeds 50% of a building's appraised value. The appraised value of a building means a bank, insurance, or other private appraisal of fair market value. It is not the assessed value used to determine real estate taxes.

Z. Structure. Something constructed, including, but not limited to, buildings, swimming pools and fences, but not including seawalls, driveways, parking areas and natural features, such as frontal dunes.

AA. Temporary Structure. Structures intended for seasonal use and in place less than 7 months each year.

NOTE: Tents and removable blinds are examples of temporary structures.

BB. V- Zone.* That land area of special flood hazard subject to a one percent or greater chance of flooding in any given year, and subject to additional hazard from high velocity water due to wave action.

NOTE: Sand Dune Maps are available as guidance to the Board of Environmental Protection, DEP staff, and the public. These maps illustrate the geology and flood hazard zones defined in this Section for many areas of the sand dune systems in southern Maine. They are considered best available information for existing conditions showing the location of frontal dunes, back dunes and flood hazard zones, unless an on-site survey indicates otherwise, and may be revised as natural changes occur, or as the flood boundaries are remapped by the Federal Emergency Management Agency.

The maps do not include evaluation of hazards caused by beach erosion, by formation or migration of inlet and marsh channels, by engineered shorelines such as seawalls and jetties, nor by future change due to sea level rise.

Maps are available for review at DEP offices and some municipal offices. They may be purchased from the Maine Geological Survey, Department of Conservation; State House, Station #22; Augusta, Maine 04333.

Some coastal sand dunes have not been mapped. In these areas, refer to the definition of sand dune system to determine applicability of the law. If an area is in question, contact the Department of Environmental Protection, Bureau of Land and Water Quality.

2. Exemptions

The following activities do not require a permit under the Natural resources Protection Act:

- A.** Construction of a temporary structure
- B.** Construction of walkways and paths across lawns or areas filled with non-sandy material
- C. Maintenance and Repair:** In order to qualify for a maintenance and repair exemption, the structure must have been in existence and in use within the one year period preceding the maintenance or repair. All maintenance and repair work must be completed within one year from the time the damage occurred. The maintenance and repair must not result in an encroachment or impact on the sand dune system greater than that caused by the previously existing structure. The repaired structure must not be significantly different

from the one which previously existed. Maintenance and repair exemptions apply only to the following projects:

- (1) Septic systems, walkways, paths, roads, driveways, and parking areas;
- (2) Buildings. This exemption shall not apply to buildings damaged by an ocean storm, if the damage exceeds 50% of the building's appraised value.

NOTE: If storm damage exceeds 50% of the building's appraised value, you must get a permit before you can rebuild.

- (3) Seawalls. If the work is done entirely with hand tools and the dimensions of the seawall are not increased. This exemption shall not apply when the building behind the seawall is severely damaged by an ocean storm, and the damage exceeds 50% of the building's appraised value.

NOTE: If the repair cannot be done with hand tools, or if the building behind the wall has been severely damaged by a storm, you must get a permit before you can repair the wall.

- (4) Fences. This exemption shall not apply to any closed fence in an A-zone, B-zone or V-zone which is damaged by an ocean storm.

NOTE: A stockade fence is an example of a closed fence. see definition of "closed fence".

- D.** Movement of sand on the beach face, provided that the work is done manually and the sand is not removed from the sand dune system.
- E.** Removal of debris from the beach face, provided that little or no sand is removed from the debris.
- F.** Removal of sand from lawns, walkways, roads, driveways, parking areas, and buildings, provided the sand is placed back into the sand dune system without disturbing beach vegetation. Sand placed on the beach shall be spread out to no greater than 3 inches above the existing beach grade.
- G.** Construction of second story building additions on single story buildings or the addition of dormers which do not increase the total height of the building provided that:
 - (1) The addition does not increase the ground area covered by the existing building;
 - (2) The cost of the addition is less than 50% of the appraised value of the building before the start of construction;
 - (3) The addition does not increase the building's total height to greater than 35 feet above the existing grade; and
 - (4) The building is not in a V-Zone.

- H. Construction of open decks of not more than 200 square feet which are supported by posts and allow wind and water to flow unobstructed underneath. This exemption shall not apply to decks constructed in a V-Zone. This exemption shall be limited to one deck per lot.
- I. Maintenance and repair of underground storage tanks, or replacement of tanks not located in a V-zone, provided disturbed areas are restored and any applicable federal, state, and local requirements are met.

Permits are required for all other projects.

3. **Standards: Preamble.** The Board recognizes that coastal sand dunes change over time due to the forces of wind and waves on the sand. Evidence exists that sea level is currently rising. In addition, theories have been developed which predict this rise to accelerate in the future. This rise will increase the rate of shoreline erosion and flooding, and the risk of damage to coastal property. Historical evidence has shown that attempts to prevent erosion and flooding through the construction or enlargement of seawalls results in harm to the beach for primarily two reasons:

- 1) Seawalls reflect waves onto the beach causing sand to be scoured away, and
- 2) Seawalls cut off the natural supply of sand to the beach from the sand dune area behind the wall.

Usually, under these circumstances, a beach can only be maintained by continually adding sand to the beach. Such beach nourishment programs result in continually increasing costs to both the public and private sectors for maintenance of the beaches and adjacent development.

The extent to which sea level will change in the future is uncertain. However, under any scenario of increasing sea level, the extensive development of sand dune areas and the construction of structures which are not practical to move increase the risk of harm, both to the sand dune system and to the structures themselves.

Therefore, in order to protect the natural supply and movement of sand, and to prevent creation of flood hazards, the Board will evaluate proposed developments with consideration given to future sea level rise and will impose restrictions on the density and location of development, and on the size of structures.

Standards. Activities in a sand dune system must meet the minimum standards set out in the following paragraphs. The Commissioner or the Board may, as a term or condition of a permit, establish additional reasonable requirements to ensure that the proposed activity will meet the statutory criteria which are found in 38 M.R.S.A. Section 480-D for a sand dunes permit. The Commissioner or the Board will deny a permit if the proposed activity does not meet the statutory criteria.

The following standards were designed to meet these criteria in most cases. Each component of a project must meet all the applicable standards.

A. All Projects

NOTE: The term "projects" as used in these rules refers to any activity which falls under the jurisdiction of the Natural Resources Protection Act and involves a coastal sand dune system. This section, applies to all activities which require a permit, including those projects which have additional standards except as otherwise indicated below.

- (1) Projects shall have a minimal impact on the immediate site and on the sand dune system. Impacts which may reasonably be expected to occur during the following 100 years will be considered. Special attention will be paid to the cumulative impacts of activities on the dune system. Development on individual lots shall be restricted as follows:
 - (a) No more than 40% of a lot may be covered by development, including land area previously developed; nor shall the total area to be covered by buildings exceed 20% of the lot, including existing buildings. Land area within the V-zone shall not be included as part of a lot for the purposes of this section.
 - (b) Where development which is existing or did exist within one year of application exceeds 40% of the total lot area, the percentage of developed area shall not be increased.
 - (c) Where buildings which are existing or did exist within one year of application exceed 20% of the total lot area, the percentage of area covered by buildings shall not be increased.
 - (d) No additional land may be covered by development or buildings as a result of lot subdivisions created after the effective date of these rules.

NOTE: Lots created after the effective date of these rules might not be developable.

- (2) Projects shall not be permitted if, within 100 years, the project may reasonably be expected to be damaged as a result of changes in the shoreline. Beach nourishment and dune construction projects are excluded from this requirement.

NOTE: Some areas, such as spit ends of beaches, are historically unstable. Shorelines can fluctuate rapidly, alternately eroding and rebuilding within a few years. If you need information about a specific area, contact the nearest regional office of the Department of Environmental Protection. Offices are located in Augusta, Bangor, and South Portland.

- (3) Projects shall not cause a flood hazard to any structure during a 100 year flood or storm.

NOTE: A 100 year flood or storm is the flood or storm that has a 1% chance of occurring during any given year. See Section I of these rules for a definition of "flood hazard."

- (4) Shore bird nesting or breeding areas or activities shall not be unreasonably disturbed by any project activities. Shore bird nesting or breeding areas shall be adequately buffered from subsequent human activities associated with the use of any project. Buffer requirements will be based upon the best available data.

NOTE: Shore birds include, but are not limited to, least terns and piping plovers. The Maine Audubon Society is a good source of information on the nesting and breeding activities of these birds.

- (5) Projects shall not unreasonably interfere with legal access to or use of the public resources.
- (6) Disturbed areas of natural beach vegetation shall be restored as quickly as possible. Natural beach vegetation includes American beach grass, rugosa rose, bayberry, beach pea, beach heather and pitch pine.

B. Structures

- (1) All structures. The approval of all new, reconstructed and replaced structures, except for piers, and additions, a combined total of which cover less than 250 square feet of ground surface since the effective date of these rules, shall be subject to the following conditions:
 - (a) No seawall shall be constructed or expanded on the property.
 - (b) If the shoreline recedes such that the coastal wetland as defined under 38 M.R.S.A. Section 480-B(2) extends to any part of the structure, including support posts, for a period of six months or more, then the approved structure, along with appurtenant facilities, shall be removed and the site shall be restored to natural conditions within one year.
 - (c) Any debris or other remains from damaged structures on the property shall be removed from the sand dune system.
 - (d) No structure shall be relocated within the sand dune system without approval of the Maine Department of Environmental Protection.

NOTE: The conditions in sub-paragraph (a) through (d) are based on the conclusions of the Department that:

-Sea level is rising, and the amount of shoreline erosion and frequency of flooding will increase;

-Seawalls interfere with the supply and movement of sand, and accelerate beach erosion; and

-Structures which are located in a coastal wetland interfere with the natural supply and movement of sand within the sand dune system and create an unreasonable flood hazard.

NOTE: The Department will record sand dune orders containing the conditions in subparagraphs (a) through (d) above with the Registry of Deeds.

- (2) New Structures and Additions to Existing Structures

(a) New structures or additions to existing structures shall:

- (i) Not be constructed in a V-Zone; or
- (ii) Not be constructed on or seaward of a frontal dune with the exception of elevated boardwalks and open fences; or
- (iii) Be constructed to withstand winds from a storm having a 50-year recurrence interval using standards published by the Federal Emergency Management Agency in the Coastal Construction Manual, Chapter 4, and appendices A and B dated February, 1986.

NOTE: The prohibition against new construction in the V-zone is based upon information from applications, workshops, seminars and hearings which has underscored the extreme flood hazards in this area. Notice should also be taken of the ocean storms around the country which have destroyed even buildings designed to withstand high storm activity. Construction in the V-zone poses a threat to public safety, health, welfare, and property, and as such constitutes an unreasonable flood hazard.

NOTE: The prohibition against new construction on or seaward of the frontal dune is based upon information from applications, workshops, seminars and hearings which has demonstrated that the frontal dune ridge is the primary buffer for storm waters and is extremely vulnerable to human activity. The frontal dune area and beach sections seaward of it are the most active parts of the sand dune system in terms of sand transport. Construction in this critical area constitutes an unreasonable interference with the natural supply or movement of sand, and also reduces the ability of the dune to buffer upland areas from storm impacts, thus causing an unreasonable flood hazard.

NOTE: Temporary boardwalks are preferred over permanent boardwalks.

NOTE: Construction standards are contained in the Coastal Construction Manual available from the Maine Department of Economic and Community Development; State House Station #38, Augusta, Maine 04333.

(b) New Buildings or additions to existing buildings in a A- and B-zones:

- (i) With the exception of storage sheds covering a ground area less than 250 square feet and garages, new buildings, additions and buildings converted from nonresidential to residential use in A- and B-zones shall be constructed so that the lowest portion of the structural members of the lowest floor (e.g. the bottom of the sills) is at least one foot above the elevation of the 100 year flood and so that water is allowed to flow unrestricted under the building;
- (ii) Shall be adequately constructed to withstand a 100 year storm;
- (iii) Shall not be used for schools, hospitals, or nursing homes or to house persons who would need special assistance during a flood; and

- (iv) Shall not be used as a base for emergency services (e.g. fire stations, evacuation shelters).

NOTE: Garages and storage sheds constructed under this exception shall not be converted to living quarters without compliance with these rules and without approval by the Board.

- (c) No building greater than 35 feet in height above existing grade, or covering a ground area greater than 2,500 square feet shall be constructed in a sand dune system unless the applicant demonstrates by clear and convincing evidence that the site will remain stable after allowing for a three foot rise in sea level over 100 years. Reliance upon an existing seawall shall not be sufficient as evidence of site stability. In modular construction, the square foot area restriction applies only to individual units if the units may be moved, one at a time without disturbing the remaining units.
 - (d) All multiple-unit buildings consisting of three or more dwelling units shall be constructed so that elevation of the first inhabited floor is at least four feet above the 100 year flood elevation.
 - (e) No building shall be constructed such that any part extends seaward of a line drawn between the seaward-most point of buildings on adjacent properties where such construction would significantly obstruct the view from an adjacent building.
- (3) Reconstruction or Replacement of Buildings.
- (a) Buildings shall not be reconstructed or replaced without a permit. To qualify as reconstruction or replacement, an application for rebuilding must be submitted to the Department within one year of the date the previous building was damaged, if the reconstruction is to repair damage. If the previous building was not damaged, an application for replacement must be submitted within one year of the date the previous building was removed. After one year, all standards for new buildings shall apply. The one year restriction shall not apply to applicants who have previously applied for a permit to reconstruct an existing building on whose application the Department has taken final action within the year previous to June 1, 1993.
 - (b) Applications for reconstruction or replacement of buildings which have been damaged to greater than 50% of their appraised value due to an ocean storm shall not be approved unless all standards of these rules for new buildings are met, with the exceptions of Sections 3(B)(2)(c) and 3(B)(2)(e) provided the new building is no larger and extends no further seaward than the previously existing building.
 - (c) Applications for reconstruction or replacement of buildings which have never been damaged by wave action due to an ocean storm shall:

- (i) Be designed in accordance with the Federal Emergency Management Agency guidelines for coastal construction that are in effect on the date the NRPA permit application is filed with the Department;
- (ii) Meet the standards of Section 3 of the Coastal Sand Dune Rules with the exception of:
 - a. Section 3(B)(2)(a)(ii), which prohibits the placement of structures on or seaward of a frontal dune, provided the building to be reconstructed or replaced on a frontal dune currently exists or existed within one year of the date the application is filed, provided the building is reconstructed or replaced in the same location or a location further landward; provided the reconstructed or replaced building does not increase the ground area covered by the previously existing building; and provided the reconstructed or replaced building does not increase the total floor area of the previously existing building, except that construction of second story additions on single story buildings or the addition of dormers which do not increase the total height of the building are allowed; and
 - b. Section 3(B)(2)(c), when the building which currently exists, or which existed within one year of the date the application was filed, exceeds 35 feet in height above the existing grade, or covers a ground area in excess of 2,500 square feet, however the reconstructed or replaced building may not be larger or taller than the previously existing building; and
 - c. Section 3(B)(2)(e), provided the reconstructed or replaced building extends no further seaward than the previously existing building.

C. Fences

- (1) No closed fence shall be placed in any A-zone, B-zone, or V-zone.
- (2) No closed fence shall be rebuilt in any A-zone, B-zone or V-zone after damage by an ocean storm.
- (3) Open fences shall not be placed on the beach face unless the fence is used to keep pedestrian traffic off of dune vegetation or away from shore bird nesting or breeding areas.

D. Fill

No fill may be placed in the sand dune system, except as specifically provided for or required in conjunction with projects which fall under paragraphs B, E, F, G, H, I, or J, of this subsection.

NOTE: In some cases, fill will unreasonably interfere with the natural supply or movement of sand; will cause unreasonable erosion; or will cause an unreasonable flood hazard.

E. Roads, Driveways, Parking Areas

- (1) No roads, driveways, or parking areas may be constructed in a V-zone;
- (2) Any road, driveway, or parking areas shall cover the minimal area necessary for its safe use.

F. Seawalls

- (1) No new seawalls shall be constructed in or on any sand dune system.
- (2) Existing seawalls may be repaired or maintained provided that:
 - (a) failure to repair the seawall will cause an unreasonable flood hazard to a building, public road, public water supply, or public sewer system behind the seawall, or to a building on an abutting lot; and

NOTE: If there are no buildings behind the seawall or on an abutting lot, or if those buildings have been severely damaged by an ocean storm, you probably won't be able to rebuild the seawall. The damaged building, if rebuilt, must be redesigned to withstand flooding, and the seawall will no longer be necessary.

- (b) the repair or maintenance does not increase any dimension of the seawall beyond the dimensions that existed prior to the damage; however, for cement walls where abutting walls exist on both ends, the footing of the wall may be increased in size, provided it does not exceed the dimensions of either abutting wall's footing. For rock seawalls, unless evidence is provided which clearly demonstrates what the dimensions of a wall were prior to the damage, the amount of new material added to the wall shall be limited to one cubic yard; and
 - (c) the repaired seawall is not significantly different in construction from the one which previously existed.

NOTE: The prohibition against new seawalls is based on the Board's review of numerous applications for seawalls in sand dune systems. That review consisted of examination of plans, extensive hearings, and receipt of substantial information and expert opinions on the effect of seawalls on sand beaches and adjacent natural resources or man-made structures. As a result of this review, the Board concludes that seawalls or similar structures placed in the sand dune system:

- cause the loss of sand and changes to the slope of the beach in front of the seawall;
- significantly modify normal patterns of water movement;
- cause erosion or accretion of sand; cause a physical obstruction in the inter-tidal zone, which obstructs public rights in that zone; and
- when deteriorating, create a likelihood of rubble or debris being scattered across the shore.

The Board recognizes the need of property owners to maintain and repair existing seawalls if failure to do so will cause an unreasonable flood hazard to adjacent structures. In most cases, these rules will allow artificially constrained sand dune systems to gradually revert to their normal dynamic condition without causing undue harm to existing structures.

G. Septic Systems. No permit for septic systems shall be issued unless the proposed system complies with all the applicable requirements of the Maine Plumbing Code or other regulations dealing with wastewater disposal.

NOTE: In most cases, a septic system which meets the applicable wastewater disposal regulations will not cause an unreasonable flood hazard.

H. Walkways

- (1) Private walkways shall not be more than four feet wide. Public walkways shall not be more than ten feet wide.
- (2) Walkways shall be placed on the sand dune system so that the walkway will allow for sand transport and will not have a significant impact on dune vegetation.

I. Beach Nourishment Projects

- (1) The project shall use sand which has textural and color characteristics consistent with the natural sand's textural and color characteristics.
- (2) No sand shall be placed on any beach vegetation.

J. Dune Restoration or Construction Projects

- (1) The project shall use sand which has textural and color characteristics consistent with the natural sand's textural and color characteristics.
 - (2) The project shall be placed behind the berm.
 - (3) The configuration and alignment of adjacent dunes shall be followed as closely as possible.
 - (4) Damage to existing dune vegetation shall be minimal.
 - (5) The dune created shall be placed with beachgrass.
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NOTE: Projects should be planned so that the new dunes can be planted immediately after construction, and the planting should be done when the plants have the best chance of survival. This is usually during early to mid spring.

- (6) The newly created dune shall be adequately protected from pedestrian traffic until the beachgrass is well established.

K. Sand Movement

- (1) No person shall remove more than one cubic yard of sand or sediment (including but not limited to pebbles or cobbles) from any beach or sand dune systems.
- (2) Sand or sediment movement shall cause minimal disturbance to beach vegetation.
- (3) Beach contours shall be maintained as closely as possible.
- (4) Sand or sediment may be moved only in conjunction with exempt activities or with other projects for which Board approval has been obtained.

4. General Provisions

- A. Project Proposal.** An applicant proposing a project in the sand dune system which has several components (e.g., a structure, driveway, fence, etc.) may apply for all components with one application. Each component, however, must meet the applicable standards or requirements.
- B. Nature of terms and conditions.** The Board may place terms and conditions on the granting of a permit for a proposed activity. Terms and conditions shall not substitute for or reduce the applicant's burden to provide substantial evidence that each of the standards has been met.
- C. Incomplete application.** If, in the opinion of the staff, an application for a permit under the Natural Resources Protection Act is incomplete, the application may be returned to the applicant with an indication of the information which needs to be supplied; and no further processing shall occur until the application is determined to be complete. The statutory time period within which the Board must act on an application under 38 M.R.S.A. Section 480-D shall not begin until the application is determined to be complete by staff.
- D. Requirements of additional information.** In reviewing applications for permits for activities under the Natural Resources Protection Act, the Board or staff may require additional information from the applicant on any aspect of the proposed activity relating to compliance with the standards.
- E. Access to site.** Filing an application constitutes permission to allow application reviewer and compliance inspectors access to the site of the proposed activity in order to evaluate whether or not the proposed activity meets the standards.
- F. Permits not contingent upon other approval.** The granting of a permit under the Natural Resources Protection Act is not contingent upon the applicant having obtained, prior to filing, other appropriate federal, state or municipal approvals, licenses, permits, etc.
- G. Performance bonds.** The Board may require an applicant to post a performance bond to insure that the approved activity will be undertaken and completed in a manner consistent with approved plans and in compliance with the standards.

H. Standard conditions of permits. The following standard conditions shall apply to all permits granted under the Natural Resources Protection Act, unless otherwise specifically stated in the permit:

- (1) Approval of variations from plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from these plans, proposals and supported documents is subject to review and approval prior to implementation.
- (2) Compliance with all applicable laws. The applicant shall secure and comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as appropriate.
- (3) Compliance with all permit terms and conditions. The applicant shall submit all reports and information requested by the Board or the Department demonstrating that the applicant has complied or will comply with all terms and conditions of this permit. All preconstruction terms and conditions must be met before construction begins.
- (4) Initiation of activity within two years. If construction or operation of the activity is not begun within two years, this permit shall lapse and the applicant shall reapply for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits shall state the reasons why the activity was not begun within two years from the granting of the initial permit and the reasons why the applicant will be able to begin the activity within two years from the granting of a new permit, if so granted. Reapplication for permits may include information submitted in the initial application by reference.
- (5) Reexamination after five years. If the approved activity is not completed within five years from the date of the granting of a permit, the Board may reexamine its permit approval and impose additional terms or conditions to respond to significant changes in circumstances which may have occurred during the five-year period.
- (6) Permit included in contract bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.
- (7) Permit shown to contractor. Work done by a contractor pursuant to this permit shall not begin before the contractor has been shown by the applicant a copy of this permit.

I. Variances

- (1) The Board may grant variances from the standards in the following sections of these rules:
 - (a) Section 3(B)(2)(a)(ii) for buildings landward of the crest of a frontal dune where the frontal dune topography has not been altered by development;
 - (b) Section 3(F)(1) for seawalls where wave action is not the primary cause of erosion;

- (c) Section 3(B)(2)(a)(i) for reconstruction or replacement of a building located in a V-zone due to involuntary destruction by fire or other cause, except for an ocean storm; or
 - (d) Section 3(B)(2)(c) as it pertains to buildings greater than 35 feet above existing grade, for the purpose of raising an existing building above the flood elevation, provided the increase in height is the minimum necessary to meet flooding requirements. For the purposes of this variance, the "sand dune, other" fee category in the Department's fee schedule shall apply.
- (2) In order to obtain a variance, the applicant must demonstrate, by clear and convincing evidence, that:
- (a) there is no feasible alternative to the proposed variance;
 - (b) because of unusual design characteristics or site conditions, the project will be consistent with the intent of the board.
 - (c) if the variance is granted, the project will not cause harm to real or personal property not owned by the applicant; and
 - (d) even if the proposed variance is granted, all other provisions of these rules and all statutory criteria set forth in 38 M.R.S.A. Section 480-D will be met.

AUTHORITY: 38 MRSA §§ 343-A and 471-478

EFFECTIVE DATE: August 1, 1983
Amended (Section 4I): OCTOBER 23, 1984
Amended: JANUARY 4, 1988.
Amended: June 16, 1993

BASIS STATEMENT
(for revision adopted on 12/15/87)

These revisions to the rules were adopted for the following reasons: 1)to increase restrictions on the location, size and density of development activities in order to prevent future flood hazards and interferences with sand supply and movement due to sea level rise and shoreline retreat; 2)to ease restrictions on development activities which have no significant environmental effect; and 3)to increase the clarity of the rules.

The Board of Environmental Protection received comments on these rules during public hearings held on March 19, 1987 in Old Orchard Beach and on August 20, 1987 in Wells. In addition, public workshops were conducted by Department of Environmental Protection staff on July 20, 1987 in Ogunquit and on July 27, 1987 in Old Orchard Beach. Written comments were accepted into the record through September 1, 1987.

The following paragraphs describe the specific changes in the rules and respond to comments on them.

1. The format of the rules was modified to improve their clarity. These changes including a table of contents and moving the definition of terms to Section 1. The organization of the Standards section was also modified. The sub-section on structures was divided into paragraphs on "All Structures", "New Structures" and "Reconstruction or Replacement Structures". In addition, certain notes were deleted which had been more confusing than helpful in understanding the purpose of the rules. These changes were in response to comments that the meaning of the rules is often unclear, particularly in regard to the standards for structures.

2. Definitions were added for B-Zone, Back Dunes, Development, Frontal Dune, Lot, Seawall and Structure. one commentor objected to the definition of Frontal dune as the most seaward ridges of sand in that the classical definition refers to only one ridge of sand. While the Board recognizes this difference in the definition, and in most cases will recognize only one ridge as the frontal dune, in some instances where new ridges are forming, the older established ridge is still providing the most protection to the back dune and is included as part of the frontal dune. Sand dune maps will provide guidance in these cases.

One commentor objected to the inclusion of filled wetland areas in the definition of back dune. These areas are included in the definition due to their location contiguous to the natural sand dune system. In this location, sand will be deposited over time, primarily due to wind action. In this manner, sand dune systems are allowed to retreat landward over time. For this reasons, the Board concluded that the inclusion of filled wetland areas is appropriate.

3. In addition to the definitions a note has been added describing sand dune maps which have been produced by the Maine Geological Survey. Several people had concerns about the accuracy of specific areas of the maps. The maps are not incorporated in these rules, but rather serve an advisory role. They are considered by the Board as best available information to establish the boundaries of back dunes, frontal dunes and flood hazard zones unless more site specific data indicates otherwise.

4. New exemptions were added in Section 2 under authority of 38 M.R.S.A. Section 478 for activities which will not significantly affect the environment, including second floor additions and construction of small open decks. These additions were made in response to several comments that the rules are too restrictive in regard to low impact projects.

5. A preamble has been added to the Standards section which expresses the Board's intent to limit the density, location and size of structures due to its concern for rising sea level. A number of commentors objected to an earlier version which stated "sea level is expected to rise at an accelerated rate in the future". The wording was subsequently revised to reflect that theories have been developed which predict an accelerated rise in sea level, but the amount which will occur remains uncertain. However, the preamble further recognizes that any rise in sea level will increase the risk of harm to the sand dune system and the structures built on it.

6. Section 3(A)(1), requiring a project to have "minimal impact" on a site, has been expanded to include density limits. The intent of these limits is to ensure that substantial portions of the sand dune system remain in a natural condition in order to allow for the supply and movement of sand in the future. Many comments were received in opposition to this section. Some commentors stated that zoning for density is a matter of local concern. Others felt that the restrictions are too harsh for areas already highly developed, and that higher percentages should be allowed for both total development and buildings. This section was modified to clarify that where limits are already exceeded, new development activity may occur up to, but not exceeding,

the existing level. The overall limits, however, were not changed. Even in areas which are substantially developed, the retention of naturally vegetated areas will allow for some additional movement to occur in the future. In addition, the Board concluded that on a typical lot of 10,000 square feet, the density limits will allow reasonable use of the lot for residential purposes.

7. Section 3(B)(1) applies to "All Structures" which includes new and reconstructed structures. The intent is to specify conditions which will be attached to all permits. So that future property owners may be aware of these conditions, the DEP will file a copy of the permit with the Registry of Deeds. Several commentors objected to the requirements that buildings in the coastal wetland be removed. The Board concludes, however, that such buildings inherently interfere with sand movement and create an unreasonable flood hazard.

8. Section 3 (B)(2)(a)(iii) requires new structures and additions to be constructed to withstand the wind forces of a 50-year storm event. This is a revision to an earlier proposal to require structures to withstand sustained 100-mph winds, which several commentors objected to. This standard has been included since debris is often created by strong winds damaging buildings during ocean storms. Such debris creates a flood hazard under these conditions.

9. Section 3(B)(2)(b) has been modified to allow storage sheds and garages to be built on grade within flood zones, but expands the area where residential structures must be elevated to include B-zones (500-year flood zones). Several commentors objected to the inclusion of B-zones. However, given current documented sea level rise, B-zone areas will actually become A-zones (100-year flood) within 100 years or less. Given the Board's consideration of future change, inclusion of B-zones is appropriate.

10. Section 3(B)(2)(C) prohibits the construction of large buildings except where evidence demonstrates a site to be stable after a 3-foot rise in sea level. Many commentors objected to this restriction, some on the basis that such a rise in sea level is highly uncertain. Some suggested that, as an alternative, a condition requiring the eventual removal of the building be attached. Others suggested allowing higher structures as a tradeoff for increasing the set-back distance from the beach. The restriction has been modified to allow modular construction where individual units could be moved without affecting remaining units. In all other cases, however, the size restriction has been kept due to the impracticality of moving structures exceeding these limits. Although the 3-foot figure for sea level rise is uncertain, a substantial amount of research has been conducted which supports a 3 foot rise, and the Board considers it appropriate given the more permanent nature of these structures.

11. Section 3(B)(2)(d) requires additional elevation for multiple unit buildings as an added margin of safety due to the buildings occupancy by several households. This standard has been applied to multiple-unit buildings permitted in the past, and does not preclude using the ground floor for parking vehicles.

12. Section 3(B)(2)(e) prohibits buildings from being placed seaward of a line of sight drawn between buildings on adjacent properties. This standard has been applied to buildings permitted in the past. Several commentors objected to this restriction as being beyond the scope of the rules. One commentor requested a greater restriction which would use a point where a building juts out for drawing a set-back line. The Board concludes that enjoying a view from an existing building is a recreational use which falls within the scope of the sand dune law. However, set-back lines are most appropriately drawn from the most seaward edge of adjacent buildings.

13. Section 3(B)(3) allows for reconstruction or replacement of buildings only when all standards for new buildings are met, except for standards 3(B)(2)(c) and 3(B)(2)(e) where the new building is no longer, and extends no further seaward than the previously existing building. This section reflects a change from the version presented at the August 20, 1987 public hearing which would have allowed the reconstruction or replacement of a building severely damaged by an ocean storm in a V-Zone or frontal dune. Several commentators opposed language which would have allowed reconstruction of storm damaged buildings in areas where they are very likely to be damaged again in the near future. The Board concludes that allowing reconstruction under such conditions is indeed contrary to the statutory criteria.

14. Section 3(F) on seawalls has been modified to allow the footing of cement walls to be enlarged only when contiguous walls on both ends have larger footings. Under these circumstances, the enlarged footings may not be larger than those on the contiguous walls. In addition, a limit on the amount of new material added to a rock seawall has been included in place of a note which contained similar language.

15. Section 4(I)(1)(a) on variances has been modified since frontal dunes may include areas altered by development. Areas which have been altered through construction of seawalls and backfill have no ridge or landward slope and have been excluded from the variance provision. Section 4(I)(1)(c) has been added for reconstruction or replacement of buildings which are destroyed involuntarily. This variance provision was added in fairness to property owners who suffer loss for reasons beyond their control other than ocean storm.

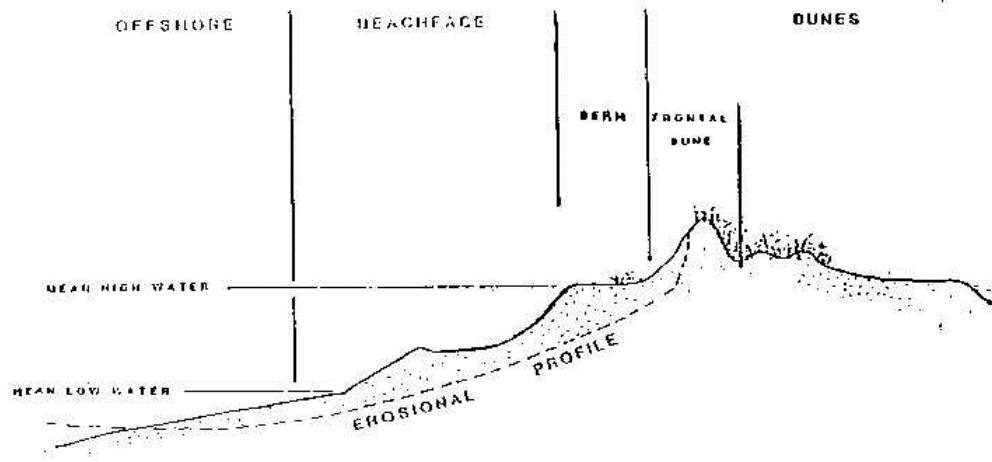
16. Several people commented that given the level of sea level rise, new restrictions should apply to the entire coast rather than just the sand dune systems. Consideration of areas outside the sand dune systems, however, is beyond the legal scope of these rules.

BASIS STATEMENT

(for revisions adopted on June 9, 1993)

These revisions to the Coastal Sand Dune Rules are designed to clarify what constitutes "maintenance and repair" and "reconstruction and replacement;" to better define the exemption requirements for building additions, and to allow reconstruction or replacement of buildings in frontal dunes which have not been damaged by an ocean storm. Currently, a permit cannot be issued for reconstruction or replacement of a building if it is within a frontal dune, whether or not the building has been damaged by an ocean storm. However, current language in the maintenance and repair exemption and the exemption for building additions that do not increase the ground area covered by a building allow a building to be replaced over time in a piecemeal fashion, with no state oversight of the construction activities. These changes to the Coastal Sand Dune Rules will restrict and clarify the exemptions, but relax the complete prohibition on reconstruction or replacement of buildings within a frontal dune, thus allowing a more uniform review of construction activities taking place in sand dune systems. The intent of the allowance for permits to be granted for reconstruction or replacement is not to allow owners of buildings which have suffered storm damage to dramatically increase the value of the structure, only to see it washed away in a future storm. The intent is to allow reconstruction or replacement of buildings in historically stable areas to take place.

Additional revisions added as a result of comments from the initial notice and public hearing allow for a variance to be granted to allow an existing building to exceed the 35 foot height restriction if the increase in height is to elevate the building out of the flood zone, provide a limited exclusion to the one year restriction on replacement of buildings if an applicant was denied a permit under a previous version of the rules within a specified period of time, and provide an exemption for maintenance and repair, or replacement if outside the V-zone, of underground storage tanks to reflect similar language which currently exists for septic systems.



PROFILE VIEW BEACH & DUNE FEATURES

APPLICATION FOR ALTERATION OF COASTAL SAND DUNES

GENERAL INFORMATION

Enclosed is an application to be used when requesting a permit to alter sand dunes under the Natural Resources Protection Act 38 M.R.S.A. Section 480-A through 480-T and the Coastal Sand Dune Rules, Chapter 355. Please read the rules carefully. All sand dune projects must meet the standards of the Natural Resources Protection Act, Section 480-D, as well as the rules. The standards pertain to the following:

- ◆ Existing Scenic, Aesthetic, Navigational and Recreational Uses
- ◆ Soil Erosion
- ◆ Habitat and Fisheries
- ◆ Natural Water Flow
- ◆ Water Quality
- ◆ Flooding
- ◆ Sand Supply
- ◆ Outstanding River Segments

Once the Department has accepted an application as complete, processing may take five months, so plan accordingly. During this time, the Department will evaluate the proposal and will solicit review comments from other agencies in order to determine if the project will meet the standards of the statute.

Some projects which have minimal impacts upon the sand dune system may be done without a permit. These exempted projects include construction of temporary structures, some paths or walkways, and most normal maintenance and repair activities. The attached rules (Section 2) should be reviewed to determine if the project is exempt. Projects, which are not exempt, require a sand dune permit issued by the Department of Environmental Protection.

The Department does not require that the application or plan be prepared by professionals. However, past experience indicates that professional advice and assistance may be helpful.

If you have questions about your project or the rules, please call the Land Bureau in Portland at 822-6300 for assistance.

REMEMBER: INCOMPLETE APPLICATIONS WILL BE RETURNED AND WILL DELAY THE PROCESSING OF YOUR APPLICATION. IF THERE IS NOT ENOUGH SPACE ON THE FORM TO ANSWER, USE A SEPARATE SHEET OF PAPER TO CONTINUE YOUR ANSWER.

APPLICATION INSTRUCTIONS

1. This application form must be filled out completely and submitted with the Attachments listed below. Keep in mind that your application will be reviewed to determine if the project will meet the standards contained in Title 38 M.R.S.A., Section 480-D and the Coastal Sand Dune Rules. Insufficient information about the project is frequently a cause of delay, so please provide detailed descriptions and diagrams with dimensions. If there is not enough space on your form to answer completely, use a separate sheet to continue your response. Include your name on all supplementary sheets.
2. Seven (7) copies of the application with attachments must be submitted to the Department, **including the original**, along with the appropriate fee according to the Departments current fee schedule.

Send these to: Department of Environmental Protection
Bureau of Land and Water Quality
312 Canco Road
Portland, ME 04103

3. One copy of the application with attachments must be filed with the municipal office in the city or town of the proposed project to be available for public inspection.
4. Retain one copy for your own records.

REMINDER: INCOMPLETE OR UNSIGNED APPLICATIONS WILL BE RETURNED.

Department of Environmental Protection
Bureau of Land and Water Quality
#17 State House Station
Augusta ME 04333-0017
Tel: (207)287-2111

L-_____

Revised 8/93

**APPLICATION FOR SAND DUNE PERMIT
UNDER THE NATURAL RESOURCES PROTECTION ACT**

PLEASE TYPE OR PRINT:

1. APPLICANT INFORMATION:

A. Name of Applicant: _____

B. Address: _____ Tel. No.: _____

C. City: _____ State: _____ Zip: _____

D. Local Contact or Agent (Name, Address, Tel. No.): _____
(Agents require a letter of authorization)

2. GENERAL INFORMATION:

A. Project Location: _____

B. Nearest Road, Street, or Route Number: _____

C. City/Town: _____ County: _____

D. Please give the name of any person previously contacted at the DEP: _____

E. If this application is a resubmission, please list the previous application number:

3. ATTACHEMNTS:

___A. Attach as Exhibit 1, a map with project location clearly marked. Acceptable maps are 7.5 minute USGS topographic maps or other maps of similar detail such as the Maine Atlas and Gazetteer (clear photocopies are acceptable provided they are labeled with the quad name or map number).

___B. Attach as Exhibit 2, a copy of the Flood Insurance Rate Map of your town, with your location marked clearly on it. These maps are published by the Federal Emergency Management Agency (FEMA) and are available in your municipal offices or from FEMA.

___C. Attach as Exhibit 3, a copy of the Coastal Sand Dune Map showing your project location clearly marked on it. These maps are published by the Maine Geologic Survey and are available in the municipal office of the town where work is proposed.

___D. Attach as Exhibit 4, scale drawings (overhead and side views) of the project site which show the project in detail, including the following:

- ___1. Dimensions and square footage of your lot;
- ___2. Dimensions and square footage of existing structures and their location on the lot;
- ___3. Location of property lines and names of abutters;
- ___4. Location of high/low water lines and where applicable, wetland boundary;
- ___5. Lot and project site elevations. These should be given in reference to National Geodetic Vertical Datum (NGVD). The FEMA flood maps indicate the locations of reference markers from which to determine elevations;
- ___6. Scale of drawings of one inch equals 100 feet or larger, and
- ___7. Contour intervals of two feet.

NOTE: Larger scale drawings are permissible.

___E. Attach as Exhibit 5, photographs which show the sites characteristics. Photos should be mounted on an 8 1/2" x 11" sheet. The photographs must be labeled with location, photographer and date taken.

___F. Attach as Exhibit 6, a copy of deed, lease purchase agreement or other legal document establishing title, right or interest in the site or provide deed reference (book and page) from the Registry of Deeds (see items 5I and 5J).

4. PROJECT INFORMATION:

- A. Describe the overall purpose of the project. Include a statement as to why the project is needed.

- B. Describe the project in detail including materials and equipment to be used.

- C. Has any part of this project been undertaken without a permit?

___ Yes ___ No

- D. Check any of the following activities that are included in the project. The letters after each activity refer you to the sections of the sand dune rules which apply to that activity. Refer to the rules for more information about the activity.

___1. BUILDINGS AND ADDITONS. State the dimensions of the building. **NOTE: See Sand Dune Regulations on building restrictions.** Construction in V-Zones and on frontal dunes is prohibited and buildings in A-Zones must meet the standards in the rules. (3.A, 3.B)

___2. FENCE. Describe and state its dimensions and location. (3.A, 3.C)

___3. FILL. Indicate the number of cubic yards. **NOTE: Fill in sand dunes must resemble the color and texture of the surrounding beach sand.** (3.A, 3.D)

___4. ROAD, DRIVEWAY, PARKING AREA. Give dimensions and location on the lot. (3.A, 3.E)

___5. SEAWALL. Describe the nature of the repair work and materials to be used, giving dimensions of the existing seawall. **NOTE: New seawalls are prohibited.** Existing seawalls may be repaired under certain circumstances, but their size may not be increased. (3.A, 3.F)

___6. SEPTIC SYSTEM. Attach a copy of application for wastewater disposal (HHE-200 form) completed by a site evaluator. (3.A, 3.H)

___7. WALKWAY. Indicate location, materials and dimensions. (3.A, 3.H)

___8. OTHER. Include description and dimensions of any other proposed alterations.

5. LOT INFORMATION AND SITE CHARACTERISTICS:

A. SIZE OF LOT. Calculate the square footage of the lot (**NOTE: One acre equals 43,560 square feet**). _____

B. Distance in feet from spring high tide line to the closest existing and proposed structures.

Existing: _____ Proposed: _____

C. In what flood hazard zone is the project located? _____

This information can be obtained from Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA), available in the municipal office of the town where the work is proposed.

NOTE: For projects in A- and B- flood hazard zones, provide lot and project site elevations. These must be relative to National Geodetic Vertical Datum (NGVD), (approximately mean sea level. Reference elevation markers can be located on the Flood Insurance Rate Maps.

IMPORTANT: Also show these elevations on profile (side views) drawings of the building and lot.

CAUTION: PROFESSIONAL ASSISTANCE MAY BE NEEDED IN DETERMINING SITE ELEVATIONS.

D. Describe the present use of adjacent properties (for example, residential, commercial, wildlife refuge).

E. Describe the density of land development in the project vicinity (for example, undeveloped, sparse development, dense residential development).

F. List the types of vegetation on the project site (for example, lawn, dune grass, beach rose, ornamental shrubs).

- G. List below the structures presently on your lot. Calculate the total area of each and enter below. Include all area covered by roof, including porches. Then enter all proposed structures and their proposed square footage.

<u>BUILDING</u>	<u>SQUARE FOOTAGE</u>	
	Existing	Proposed
_____ permanent home	_____	_____
_____ seasonal camp	_____	_____
_____ mobile home	_____	_____
_____ tool shed	_____	_____
_____ other, describe below	_____	_____

Totals	_____	_____

<u>DEVELOPMENT</u>	<u>SQUARE FOOTAGE</u>	
	Existing	Proposed
_____ open deck	_____	_____
_____ driveway	_____	_____
_____ other, describe below	_____	_____
Total	_____	_____

- H. Provide exact directions to the site. EXAMPLE: "Turn left off Route One southbound onto Shore Road. Go ½ mile east toward the ocean to Seaside Street and take a left. The project site is #77 Seaside, the third house on the left, a white clapboard cape."

NOTE: If no identifying features exist on this lot, put up a temporary sign to help field investigators find the proper site. Include a sketch map showing the project location.

- I. (Check if applicable) Do you OWN____LEASE____HAVE AN OPTION____or WRITTEN AGREEMENT TO USE____the property?

- J. List the deed reference numbers of the property from the registry of deeds: Book #_____
Page #_____

- K. List the map and lot numbers of the property from municipal tax maps:
Map#_____ Lot #_____

5. List the name, address, and title of any professional contributing to this application:

NAME	TITLE	ADDRESS
------	-------	---------

_____	_____	_____
_____	_____	_____

By signing below, as the applicant or authorized agent, you certify that:

1. The information contained in this application and attached drawings is complete and accurate to the best of your knowledge.
2. Property owners abutting the project site have been notified in writing of your intent to perform this alteration under the Natural Resources Protection Act.
3. A duplicate copy of this application has been filed with the municipal office in the town where work is proposed.

4. Public Notice has been published three days in a newspaper circulated in the area where the project is proposed.
5. The chief municipal officer has been notified in writing of your intent to perform this alteration under the Natural Resources Protection Act and Coastal Sand Dune Rules.

SIGNATURE OF APPLICANT

DATE

PRINT NAME AND TITLE

IF SIGNATURE IS OTHER THAN THE APPLICANT, ATTACH A LETTER OF AGENT AUTHORIZATION SIGNED BY THE APPLICANT.

NOTE: ANY CHANGES IN PROJECT PLANS MUST BE SUBMITTED IN WRITING TO THE MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND MUST BE APPROVED BY THE DEPARTMENT PRIOR TO IMPLEMENTATION.

PUBLIC NOTICE

The Department of Environmental Protection requires that an applicant provide public notice in which he/she describes the project activity and where it is located. Three notices all using the same form (attached), are required. The notice requirements are as follows:

1. **NEWSPAPER**-You must publish the public notice once in a newspaper circulated in the area where the project is located. The notice must appear in the newspaper during the week the application is filed with this Department.
2. **ABUTTING PROPERTY OWNERS**-You must send a copy of the public notice to the owners of property abutting the project. Their names and addresses can be obtained from town tax maps or local officials. They must receive notice during the week the application is filed with this Department.

List below the names and addresses of the owners of abutting property (use additional sheet if necessary).

NAME

ADDRESS

3. **MUNICIPAL OFFICE**-You must send a copy of the public notice and a **DUPLICATE OF THE ENTIRE APPLICATION** to the Municipal Office.

NOTE: THE APPLICANT SHALL USE THIS FORM OR ONE CONTAINING IDENTICAL INFORMATION TO NOTIFY ABUTTERS, MUNICIPAL OFFICIALS, AND LOCAL NEWSPAPERS.

NOTICE

Please take notice that _____
Name of Applicant

Address of Applicant

is filing for a permit with the Department of Environmental Protection to make alterations under the Natural Resources Protection Act (Title 38 MRSA Section 480-A through 480-T).

(State specifically what is to be done and the project's address)

at the following address: _____
_____, Maine.

The application will be filed for public inspection at the Department's office in Augusta and at the municipal offices on _____.
Date

Written comments and/or a request for a public hearing from an interested person must be sent to the Department of Environmental Protection, #17 State House Station, Augusta, Maine, 04333-0017, within 14 days of filing the application to receive consideration. A public hearing may or may not be held at the discretion of the Commissioner or Board of Environmental Protection.

